

# *The economic freedom: the most fundamental and the most attacked*

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All the basic words which are necessary to discuss the social reality have been subject to confusion and manipulation

freedom

property

state

justice

rule of law

democracy

law

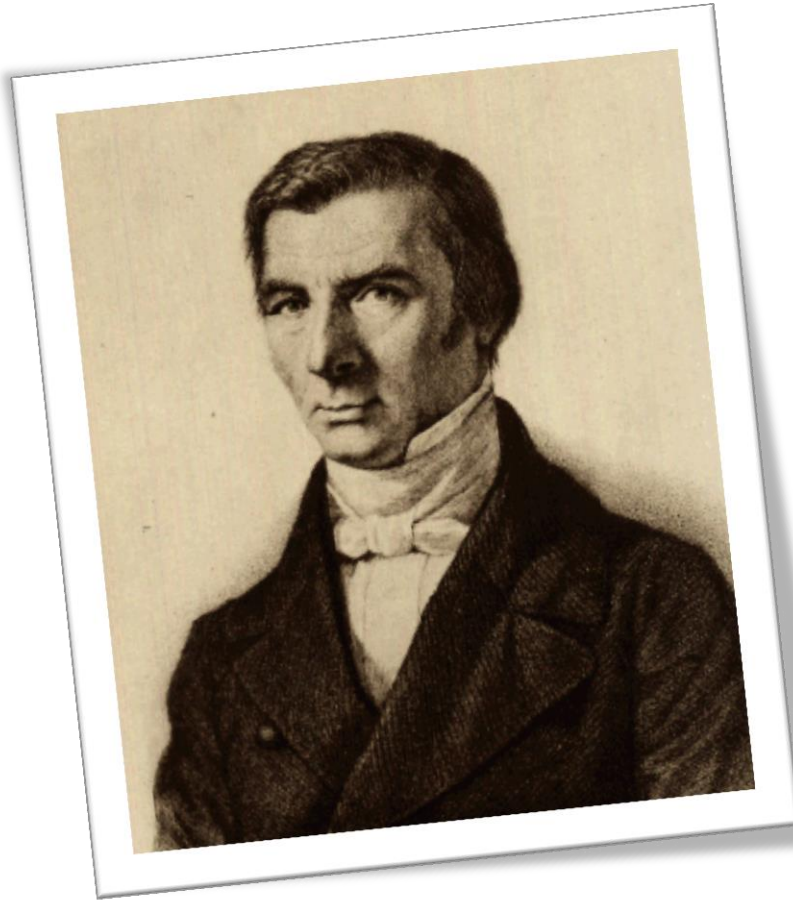
## The state:

### Utopian conception

- State as preternatural phenomenon (deification of state – demonization of the market)
- Soviet officials mentality: no problem can be solved without the state

### Realistic conception

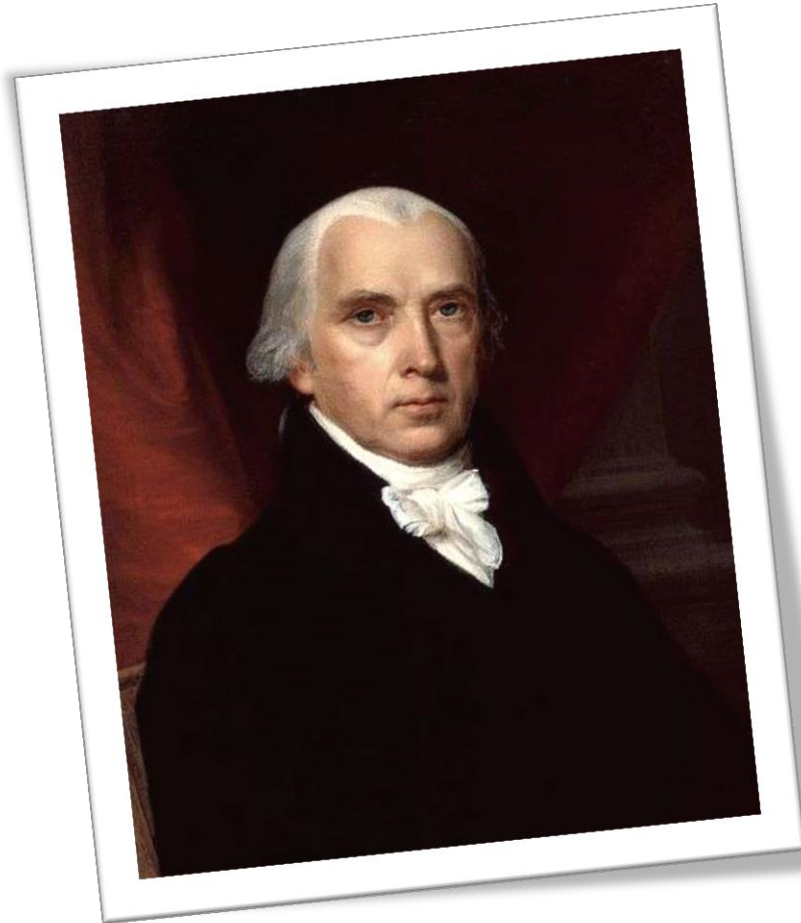
- Weber's conception
- Nozick's conception



*Government is the great fiction through which everybody endeavors to live at the expense of everybody else.*

*But the thing that never was seen, and never will be seen or conceived, is, that Government can restore to the public more than it has taken from it.*

Frederic Bastiat (1801 – 1850),  
French economist and philosopher



*If men were angels, no government would be necessary.*

*If angels were to govern men, neither external nor internal controls on government would be necessary.*

James Madison (1757 – 1836),  
4<sup>th</sup> President of the United  
States

## Conclusion?

Political power (the state) should be strictly limited.

## Freedom:

- Freedom  $\neq$  independence
- Freedom  $\neq$  wealth

- Freedom refers to the relationship between an individual and:
  - a state
  - other organizations and social groups
- The less acts are recognized as crimes by the state law, the more freedom in relation to the state has an individual

## Two categories of crimes:

- Crimes
  1. ordinary (elementary)
  2. “political” (against the political system)
- Socialism: any act of freedom was a crime against socialism prosecuted by the political police
- Regulation expands the list of ordinary crimes

# What should be the legal limits of freedom?

## The classical position:

A necessary but not sufficient condition for the restriction of freedom is prevention of any specific harm.



*The sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.*

John Stuart Mill (1806 - 1873),

- But, basic questions remain, e.g.:
  1. paternalism issue
  2. harm done to what kind of beings?
  3. harm by action vs. harm by omission
  4. freedom of contracts vs. the doctrine of a weaker side (reminiscence of the Marxism)
  5. negative effects of the enforcement of some prohibitions (US prohibition)



*He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise.*

John Stuart Mill (1806 - 1873),

What should be the liberal position on the scope of freedom? Some considerations:

1. Moral norms (religious)  $\neq$  legal norms
2. The set of acts considered as crimes is strictly limited
3. Lack of paternalistic restrictions of freedom
4. Presumption of freedom

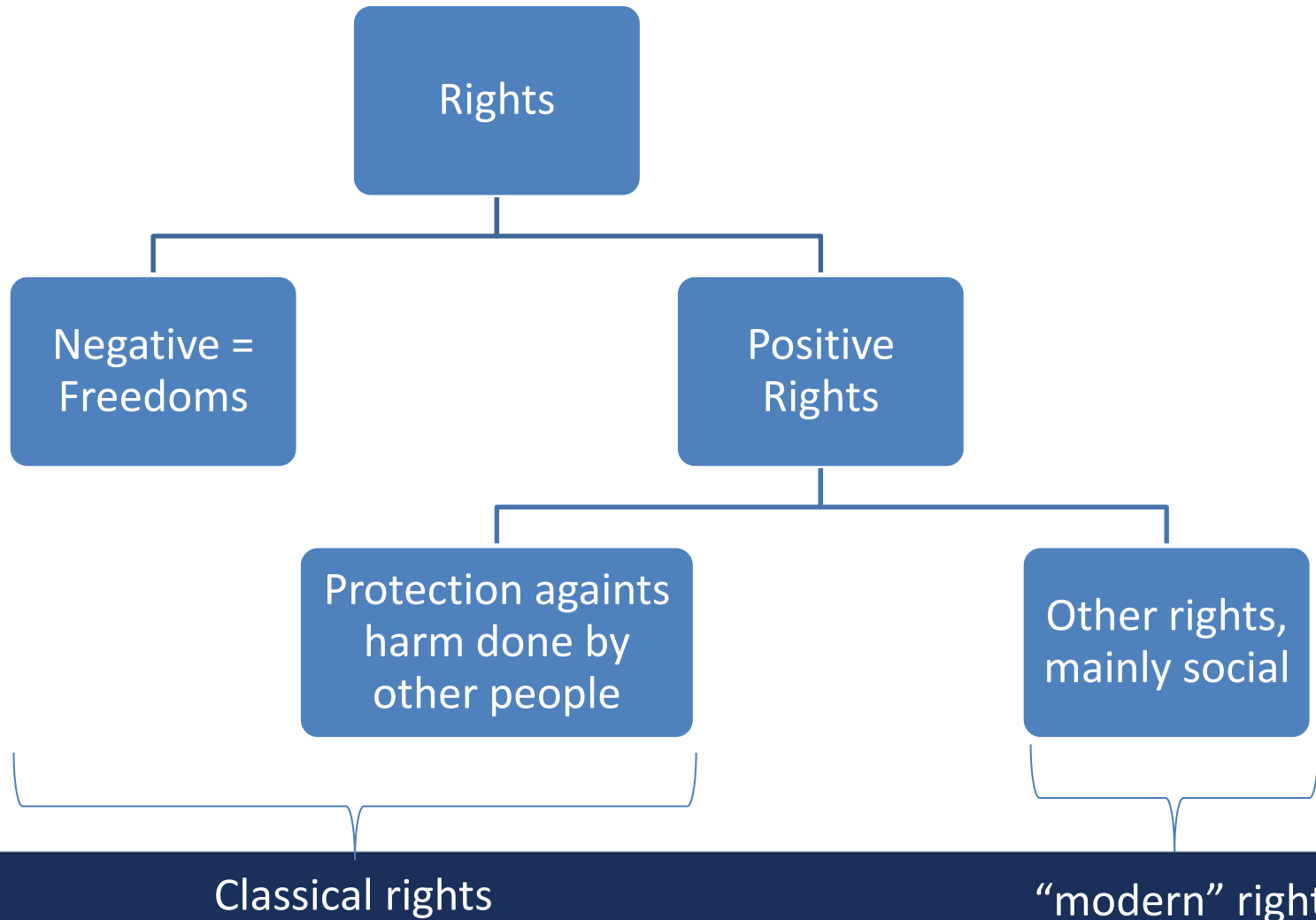
These rules will remain on paper if not supported by an active civil society.


### Freedom vs. Equality:

- Two types of (in)equality
  - of opportunity
  - of situation (including incomes)

- Equality of opportunity includes equality under the law
- Certain collisions between freedom and some aspects of equality of opportunity exist, e.g. obligatory education (restrictions on freedom of parents towards their children in the name of equal opportunity for children) – see R. Pilon
- Freedom and equality of opportunity cannot be reconciled with egalitarianism of situation (income)

## Liberties vs. positive rights, classical rights vs. “modern” rights



- Socialist movements (since 19<sup>th</sup> century)  social rights;
- Intellectually weak justification of social rights: social justice etc.;
- Contemporary ideology of human rights focuses on social rights, ignoring or undervaluating classical rights, especially the private property rights.

In the United Nations Universal Declaration of Human Rights property rights are marginalized by an extensive list of social rights.

European Court of Human Rights in Strasbourg recognized the right to welfare as a part of the right to property (!). *Disagreeing with this opinion Marc Bossuyt, judge in the Belgian Constitutional Court stated, that “If social support has become a property right, then the judges in Strasbourg have succeeded in making an owner of he who owns nothing. Even Marx had not been able to do that”. (Mchangama, Rhodes 2012).*



*It would seem to be a blatant injustice if someone should be forced to contribute toward the costs of some activity which does not further his interests or may even be diametrically opposed to them.*

Knut Wicksell (1851 - 1926),  
Swedish economist

## Main intellectual currents:

### Classical liberalism

- emphasis put on classical rights, skeptical towards social rights

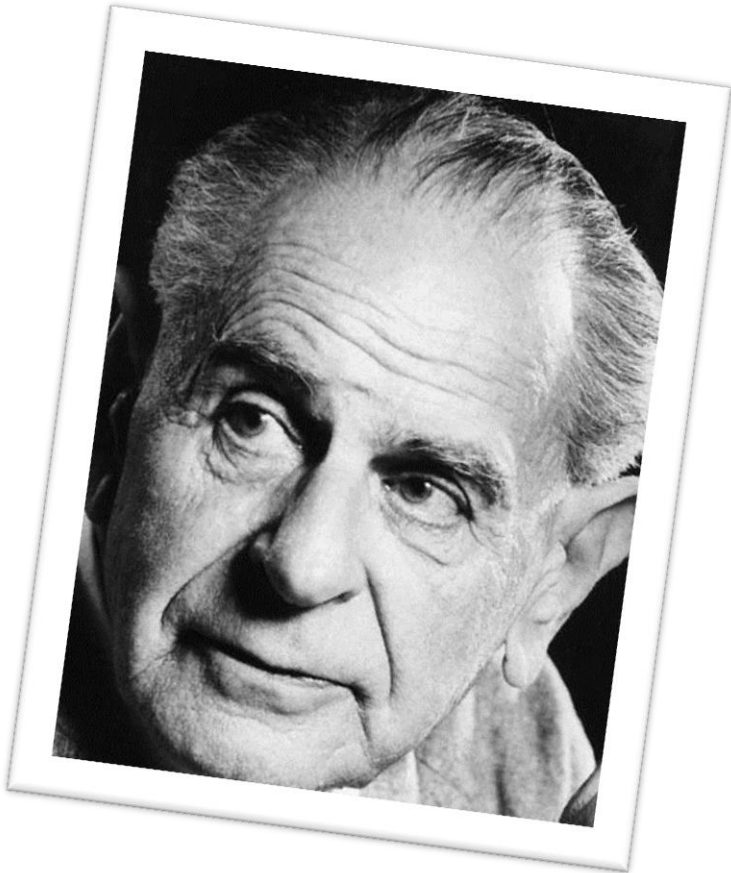
### Marxism

- emphasis put on social rights  
hostility towards classical rights

### Social democracy

- reluctant acceptance of classical rights, emphasis put on social rights.

Political freedom  $\approx$  government chosen in  
elections  $\approx$  democracy



*Anybody who has ever lived under another form of government-that is, under a dictatorship which cannot be removed without bloodshed-will know that a democracy, imperfect though it is, is worth fighting for and, I believe, worth dying for.*

Karl Popper (1902 - 1994)

- **But** democracy doesn't guarantee:
  - wide scope of economic freedom
  - high level of the rule of law

## Democracy requires civil liberties:

- Freedom of assembly
- Freedom of association
- Freedom of speech
- Freedom of Media

These liberties are crucial but can and are being used against economic freedom.

The scope of economic freedom and the level of the rule of law in the democracy are established by the relative strength between the following components of the civil society:

1. Mutual help or help to the other people
2. Pressure on the political system:
  - 2.1 Statist groups
  - 2.2 Liberal groups

## Economic freedom:

- Right to work - freedom or social right?
- Private property  $\approx$  freedom of economic activity
  - ✓ Right to decide (the control rights)
  - ✓ Right to benefits (the cashflow rights)
- Freedom of contract

The importance of economic freedom :

1. the economic development
2. existence of democracy (there is no democracy without capitalism)

- Economic freedom → economic growth:  
the largest is the reduction of economic freedom, the worse:
  - Socialism
  - Interventionism
    - Public ownership
    - Regulatory statism
    - Welfare statism (extensive and often badly structured welfare state)

## Economic freedom is being attacked by:

1. Interest groups (see: Public Choice)
2. Ideological groups → anti-market and anti-capitalist propaganda (see Mises, Hayek, Aron, Nozick)
3. Statist groups (deification of the state – the mentality of a Soviet official, extreme environmentalists, etc.)

## Examples of anti-market propaganda:

- Free market → greed  
Socialism → better man
- Market exchange is naturally immoral. What are the alternatives?
- Free market → inequality  
What kinds of inequalities in income are acceptable?

- The market (spontaneous order) cannot operate in a complex economy
- If it had not been for market, it would be general fraternity (one big kibbutz)
- Capitalism creates society consisting of:  
exploiters; exploited
  - a) exploiters
  - b) exploited



Marxism

All those and other myths have their source in:

- Utopian image of human nature, the state and society
- Flagrant errors in reasoning:
  - Blaming free market capitalism for weaknesses of other kinds of capitalism: overregulated, over-socialized, crony capitalism.
  - Not comparing capitalism with socialism
  - Pure demagoguery or wishful thinking

What to do? (the liberal groups):

- Search for **institutional devices** which, if implemented, would constrain statism or – at least – make its costs more visible to the people, e.g.:
  - constitutional limitations on the public debt
  - the concept of regulatory expropriation (R.A. Epstein);
- Use the best communication and mobilization techniques;
- Be ready with the reform program once a window of opportunity appears.



**Protecting liberty,  
promoting truth and common sense  
in public discourse.**